



Labour Law in 2023

What changes are going to happen?

The Decent Work Agenda is a set of measures aimed at improving working conditions and the conciliation of workers' personal, family, and professional life.

We highlight the most relevant changes that came into force on May 1, 2023.

PARENTHOOD

THEME

Initial paternity leave

NEW RULES

After 120 consecutive days, parents may cumulate the remaining days of leave with part-time work, which may be take by both parents simultaneously or sequentially.

Part-time work corresponds to a normal daily working period equal to half that of full-time work in a comparable situation.

Exclusive parental leave of the father

Parental leave will now be 28 days consecutive, with a minimum of 7 days, in the 42 days following the birth.

After this leave has been taken, the father is still entitled to 7 days leave, consecutive or interspersed, if they are taken simultaneously with the mother's initial parental leave.

This is only a change from working days to calendar days.

THEME

Amendments to the regime of absences and dispensations in case of adoption

Parental leave in case of adoption

NEW RULES

Workers who are candidates for adoption or foster families will now be entitled to time off work to carry out an evaluation or to comply with the obligations and procedures foreseen in the law for the respective processes.

The prospective adopter will also be entitled to parental leave exclusive of the father in addition to the initial parental leave.

The prospective adopter may also take up to 30 days of initial parental leave during the transition and monitoring period.

In case of, multiple adoptions, the father's exclusive parental leave is also increased by two days for each adoption over and above the first.

EXPERIMENTAL PERIOD

THEME

NEW RULES

Concept of the experimental period

Paragraph 4 is added: "Where the employer does not comply with the duty of communication provided for in Article 106(3)(o) within the period provided for in Article 107(4), the parties shall be deemed to have agreed to exclude the trial period."

An experimental period in a probation contract

The probationary period may be reduced if the duration of the professional traineeship with positive evaluation for the same activity and the different employer is equal to or longer than 90 days and last 12 months.

Duration of the experimental period

Workers with an open-ended contract who are looking for their first job and the long-term unemployed will have their 180-day probationary period reduced or excluded depending on the length of their previous fixed-term contract.

EXPERIMENTAL PERIOD

THEME

Termination of the contract during the trial period

Termination of the contract during the trial period in an open-ended employment contract

NEW RULES

The termination of the contract during the trial period, after the end of the 120 days, must now be done with a minimum duration of 30 days.

In the case of termination of open-ended contracts for first-time job seekers and the long-term unemployed, the termination will be subject to communication to the ACT within 15 days.

TEMPORARY WORKER

THEME

Maximum number of renewals of employment contracts temporary employment contracts

The maximum duration of temporary contracts in different users

NEW RULES

A fixed-term temporary employment contract can only be renewed up to four times.

In addition to the existing limits, the duration of successive temporary work contracts in different users, concluded with the same employer or a company with which it is in a controlling or group relationship, or maintains common organizational structures, may not exceed four years.

In the event of a temporary employment contract exceeding that limit, it will be converted into an employment contract of indefinite duration for temporary leasing.

WORKING STUDENT

THEME

NEW RULES

Students work contracts during holidays or school breaks.

Contract not subject to written form and does not depend on proof of student status by the employee.

Fixed-term contracts are subject to the respective conditions of admissibility.

The obligation of prior communication to Social Security, which includes the generic indication of the justifying reason for the fixed-term contract.

The application of the special provisions regarding the participation of a minor in a show or other activity of a cultural, artistic, or advertising nature is not ruled out.

Income of working students

Besides the situation already foreseen, the household's income from dependent work will not be considered as income from dependent work received by young working students, aged 27 or under, whose annual amount does not exceed 14 x minimum monthly wage (RMMG), for attribution of the social benefit family allowance, higher education grants, and survival pensions.

TELEWORK

THEME

NEW RULES

The right to work from home

Worker with a child, regardless of age, who is disabled, chronically ill, or with an oncological disease, who lives with the worker under the same roof.

Compensation for expenses

The employment contract and the collective labor agreement will fix the amount of fixed or variable compensation for additional expenses. In the absence of an agreement, additional expenses are those corresponding to the acquisition of goods and or services that the employee did not have before working via telework/hybrid regime, as well as those determined in comparison with the homologous expenses in the last month of work in a face-to-face regime. For tax purposes, compensation is considered a cost for the employer and does not constitute employment income up to the limit of the amount to be defined by the Ministerial Order.

WORK TIMES AND ABSENCES

THEME

Group adaptability and bank of hours

Group adaptability and the hour bank, apart from the situations currently foreseen, may not be applied to:

- . Workers with a child who, regardless of age, has a disability or chronic illness, unless they express their agreement in writing;
- . Workers with a child aged between 3 and 6 years old, who present a declaration that the other parent has a professional activity and is unable to assist.

Absence due to gestational grief

In cases of interruption of pregnancy, when there is no leave for interruption of pregnancy, the worker may be absent for reasons of gestational bereavement for up to 3 consecutive days. In the case of, pregnancy leave or absence of the woman, the father is entitled to up to 3 consecutive days of absence. For this purpose, the woman and the worker must inform their respective employers, presenting, as soon as possible, proof of the fact invoked, which is done by means of a declaration from a hospital establishment or health center or a medical certificate.

This absence does not result in the loss of any rights and is effective work.

WORK TIMES AND ABSENCES

THEME

NEW RULES

Bereavement due to the death of a spouse

Increase to 20 consecutive days the number of days of absence due to the death of a spouse who isn't separated from persons.

Proof of sickness absence

Proof of illness may be provided using a self-declaration of illness, under oath, which can only be issued when the employee is ill for no more than three consecutive days, up to a maximum of two times per year.

Replacement for loss of wages due to holidays or additional work

The employer can no longer oppose such a request for replacement by the employee.

Supplementary work

A difference in remuneration is established for overtime work done up to 100 hours per year and that done after that number. Overtime work exceeding 100 hours per year will be paid at the hourly rate with the following increases:

. 50 % for the first hour or fraction thereof and 75 % per subsequent hour or fraction thereof on a working day;

.100% for each hour or fraction thereof, on a mandatory or complementary weekly rest day or a public holiday.

TERMINATION OF EMPLOYMENT CONTRATS

THEME

NEW RULES

Procedure in case of collective dismissal

The employer will now be obliged to send DGERT a copy of the communication sent to each of the employees covered.

Compensation for collective dismissal

The amount of compensation for collective dismissal will be 14 days of base salary and seniority pay for each full year of seniority.

This amendment only applies to the period of the contractual relationship counted from the beginning of the validity and effects of this legislative amendment.

Prohibition of outsourcing after dismissal

The employer that has promoted the termination of employment contracts due to collective dismissal or the extinction of the job position will be prohibited from resorting to outsourcing to meet the same needs in the following 12 months.

TERMINATION OF EMPLOYMENT CONTRATS

THEME

NEW RULES

The injunction to suspend dismissal

If the ACT verifies the existence of an illicit dismissal, a record will be drawn up and the employer will be notified to regularize the situation.

If the situation is not regularized, the Public Prosecutor has 20 days to initiate a precautionary procedure to suspend the dismissal.

Abdicative remission

Labor credits will no longer be subject to waiver, except by judicial transaction. With this change, the incentive for employers to enter into out-of-court settlements is reduced.

Termination of the employment contract by a worker victim of domestic violence

Workers who have been recognized as victims of domestic violence under the terms of specific legislation will be exempt from having to give notice when terminating their employment contract on their initiative.

WORKER CARER

THEME

NEW RULES

License

In addition to maintaining the right to telework, an annual leave of five working days, which must be taken consecutively, will be granted.

To this end, the employee must inform the employer, in writing, ten working days before the start of the leave, indicating the days on which the leave is to be taken. The carer must also submit a declaration that the other members of the household are not taking the same leave in the same period or are unable to assist.

Carer's leave is suspended due to illness of the employee if the employee informs the employer and submits a medical certificate to prove it and continues as soon as the impediment ceases and cannot be suspended for the convenience of the employer.

Absence to
provide assistance

Extended entitlement to care worker, regardless of the family relationship of the person being cared for.

WORKER CARER

THEME

NEW RULES

Exemption from overtime work

Exemption from overtime will be provided for as long as there is a need for assistance.

Part-time work or flexible hours

The right to work part-time, consecutively or interpolated, for a maximum period of 4 years or to request the provision of The right to work part-time, consecutively or interpolated, for a maximum period of 4 years, or to request flexible working hours, similarly to what is foreseen for workers with children under the age of 12.

In these cases, the procedure to be followed is identical to that previously established for the request for flexible working by a worker with a child under the age of 12.

If the employer intends to refuse the employee's request, they must send the case for assessment by the CITE (Commission for Equality in Labor and Employment). In the case of an unfavorable opinion, the employer can only refuse the request after a court decision recognizing the existence of a justifiable reason for the refusal.

On the other hand, dismissal for reasons attributable to a care worker is presumed to be without just cause.

Finally, the worker-caregiver who holds parental rights in relation to the person being cared for cannot cumulate the rights provided for parental protection with the rights provided for the worker-caregiver.

DIGITAL PLATAFORMS

THEME

Digital
plataforms

NEW RULES

The new legislation will define a digital platform as "a legal person that provides or makes available services at a distance, through electronic means, including a website or software application, at the request of users and involving, as a necessary and essential component, the organization of work performed by individuals for payment, regardless of whether such work is performed online or at a particular location, under the terms and conditions of a business model and a brand of its own".

This regime will cover companies engaged in the Individual Remunerated Transport of Passengers in Uncharacterized Vehicles (TVDE).

A presumption of employment will be established based on six different criteria, and it is sufficient that some of these criteria are met for the presumption to apply.

DIGITAL PLATAFORMS

THEME

Digital
plataforms

NEW RULES

As in the general regime, the digital platform will be able to rebut the presumption by proving facts that result in the absence of legal subordination. It may also argue that the activity is provided to a natural or legal person who acts as an "intermediary" for the digital platform to make the services available through its employees.

In that case, it will be for the court to determine who the employer is.

The digital platform may not set terms and conditions of access to the provision of the activity that is more unfavorable, or discriminatory in nature, for activity providers that establish a direct relationship with the platform, compared to the rules and conditions defined for "intermediaries".

Furthermore, the digital platform and the "intermediary" will be jointly and severally liable for the claims of the employee arising from the employment contract concluded between the employee and the "intermediary". Similarly, the digital platform and the intermediary will be jointly and severally liable for the corresponding social charges and the payment of fines imposed for labor-related offences for the last three years.

OTHER RELEVANT AMENDMENTS

minimum wage

€760,00

Index of Social Support

€480,43

Supplementary work

The autonomous withholding tax rate is reduced by 50% from and including the 101st hour.

IRS

The IRS withholding rate is reduced to the rate of the immediately lower tax bracket:

- ✓ The taxpayer is a debtor of a housing loan which has as object his permanent residence and
- ✓ The taxpayer earns a monthly remuneration that does not exceed 2.700,00



Meal subsidy

(IRS exempt)

- ✓ €5,20 payment in cash
- ✓ €8,32 payment is made by meal card



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